

REMARKS

Claims 1-49 remain in the application. Claims 7, 8, 12, 13, 17-21, and 38 are indicated as allowable. Claims 1-6, 9-11, 14-16, and 22-37, and 39-49 are rejected.

In the Office Action, the Examiner rejected claims 44-49 under 35 U.S.C. §112. These claims have been amended to overcome this rejection.

In the Office Action, the Examiner next rejected claims 1-6, 9-11, 14-16, 22-36, 39-44, 48, and 49 under 35 U.S.C. §103(a) as being unpatentable over the Ando patent in view of WISC.

Independent claim 1 is essentially directed to a method of estimating purchases made by customers of a supplier of interest (e.g., Retailer₁) from other suppliers (e.g., Retailers_{2-n}). According to the method, panelist data regarding purchases made by panelists from the supplier of interest and from the other suppliers are read. The panelists are a subset of the customers. A relationship between the purchases made by the panelists from the supplier of interest and the purchases made by the panelists from the other suppliers is determined. Customer data regarding purchases made by the customers from the supplier of interest are also read. Based upon the customer data and the relationship, the purchases

made by the customers from the other suppliers are estimated.

The Ando patent discloses various arrangements for forecasting demand. For example, the Ando patent discloses in column 1, lines 19-30 that, according to one demand forecasting system, a fuzzy operation is applied to sales results that include the sales demand of individual products, the component ratio of the sales, and profit rate in order to calculate an index showing the ease of sales promotion of individual products. The fuzzy operation is based on the knowledge of an expert in sales plans and an analysis of the fluctuation in the trend of sales.

The Ando patent further discloses in column 1, lines 31-45 that, according to another demand forecasting system, the sales of each product is collected from a sample shop. The sample shop is extracted from plural shops. Then, the sales in all shops is presumed from the sales in the sample shop on the basis of the ratios of the sales in the sample shop to the sales in all shops and the characteristics of commodities of the sample shop (price zone, target customer age, selling technique etc.). Sales transition patterns of plural types and of final sales are estimated on the basis of the past transition of sales results. The estimated sales transition patterns and final sales are stored. A

pattern similar to the estimated transition pattern of sales of all shops is selected from the stored sales transition patterns, and the estimated final sales is regarded as the estimated sales of the commodities, and production is planned accordingly.

The Ando patent concludes in column 1, lines 46-63 that, in these demand forecasting systems, demand is forecasted by analyzing the trend of past sales, and that the main goal of such systems is to apply statistical analysis techniques and econometric modeling.

However, if product trends change in short cycles, the data used in analysis rapidly become old and the precision of the forecasts suffers. In order to maintain a high degree of precision for the forecast, maintenance of the forecasting software, of the knowledge, and of the conditions is required frequently. Such maintenance is difficult.

The Ando patent discloses in column 1, line 66 through column 3, line 3 that its invention is intended to solve these problems by storing a plurality of models of neural networks including a model that forecasts demand from data of the past several months, a model that forecasts demand from data of the same period of the previous year, and a model that forecasts demand from both the latest data and data of the same period of the previous year. Sales are fed into a model so that the

model learns during a short period of time, such as weekly, to predict demand depending on sales trends.

As can be seen, the Ando patent discloses various arrangements for forecasting demand. However, as explained in previous responses, demand forecasting is not relevant to the invention of independent claim 1 for at least two reasons. First, independent claim 1 is limited to estimating past sales, whereas demand forecasting predicts future sales. Second, demand forecasting does not focus on the customers of a particular product supplier as required by independent claim 1, but rather focuses on consumers as a whole or on one or more segments of consumers (such segments may be defined by age, sex, income, etc.).

Moreover, the Examiner asserts that the Ando patent discloses the collection of data regarding the purchases from a supplier of interest and the collection of data regarding the purchases from other suppliers. This assertion is an inaccurate representation of the Ando patent. The sample shop is merely a representation (a sort of average) of the plural shops. For example, the Ando patent specifically discloses at column 1, lines 32 and 33 that the sample shop is extracted from the plural shop. Accordingly, rather than storing the data from many shops, the plural shops may be represented by a single shop and by ratios that describe the relationship

between the sales of the sample shop and the sales of the actual shops.

Thus, the sample shop is not a supplier of interest, but is only a representation of the other suppliers.

Furthermore, the Examiner recognizes that the Ando patent does not disclose the use of a panel to acquire panelist data. This distinction points out another fundamental failing of the Ando patent with respect to independent claim 1. The present invention is directed to the estimation of the purchases made by customers of a supplier of interest from other suppliers, based on (i) the purchases of a subset of these customers (the panelists) from both the supplier of interest and from the other suppliers, and (ii) the purchases made by the customers of the supplier of interest from the supplier of interest.

The Ando patent never discloses the acquisition of data regarding the purchases made according to (i) and (ii) above. The Ando patent merely discloses the acquisition of sales data without ever identifying the customers who may the purchases. Accordingly, the Ando patent cannot begin to suggest the invention of independent claim 1.

In summary, there are at least three distinctions between independent claim 1 and the Ando

patent. First, demand forecasting such as disclosed in the Ando patent is irrelevant to the invention of independent claim 1 because it deals with future sales. Second, demand forecasting such as disclosed in the Ando patent does not rely on a supplier of interest because demand forecasting requires data from plural suppliers. Third, demand forecasting such as disclosed in the Ando patent does not rely on data from two specific groups of people such as the customers of a supplier of interest and a subset of those customers.

The Examiner also relies on WISC. WISC has a number of problems. First, the Examiner relies on the copyright date information given on the Confidential Disclosure Agreement at page 11 of WISC. However, there is nothing in WISC that indicates that this copyright date information applies to the material on pages 1-9. Indeed, it is clear that the copyright date information applies only to the Confidential Disclosure Agreement. Accordingly, the Examiner has not established that the material cited in WISC is prior art to independent claim 1.

Second, WISC contains no disclosure of the features of independent claim 1 and does not suggest the invention of independent claim 1. For example, pages 1 and 2 of WISC disclose that WISC helps its clients to promote their products by analyzing (i) the technical

feasibility of proposed products, (ii) patents, (iii), market size, (iv) competition, (v) demand, etc. WISC also looks at distributor assessment, customer satisfaction, and licensing partnerships.

Pages 3 and 4 of WISC disclose that WISC performs new product assessments, competition analysis, distributor assessments, customer assessments, and partnering assessments. In the area of customer assessments, WISC conducts one-on-one customer interviews to gauge demand for new products, product applications, and company image.

Pages 5 and 6 of WISC disclose that the customer assessments help to obtain customer reaction to potential new products and product applications, to prevent customer defections, to support a client's image, to recognize new profit opportunities, and to understand competition. WISC works with its clients to identify competition, types of customers, and identities of potential customers, to develop a customer survey, to conduct the survey, and to draw conclusions from the survey results.

Pages 7 and 8 of WISC disclose that this survey is conducted with customers who purchase only from the client and with customers of the client who also purchase from other suppliers. As can be seen from pages 7 and 8, the survey questions are confined to customer

satisfaction and do not quantify the sales as would be necessary in order to estimate sales that have been made by the customers of a client from the client's competitors. Also, there is no indication that the two groups of customers identified in sections 1) and 2) of page 7 overlap as would be necessary to determine the relationship recited in independent claim 1.

Therefore, WISC does not suggest a modification of the arrangements disclosed in the Ando patent that would meet the limitations of independent claim 1. For example, customer satisfaction such as disclosed in WISC deals only with future sales, and then only qualitatively. Accordingly, WISC does not suggest collecting and processing data to estimate sales that have been made because it is only concerned with sales that have not been made. Also, customer satisfaction such as disclosed in WISC does not rely on data related to purchases made by customers of a client and by a subset of those customers. Accordingly, WISC does not suggest collecting and processing data to estimate purchases made by customers of a client from competitors based on data from those customers and a subset of those customers.

Because the combination of the Ando patent and WISC does not disclose or suggest features of independent

claim 1 as discussed above, independent claim 1 is not unpatentable over the Ando patent in view of WISC.

Also, because the Examiner has not established that WISC is prior art with regard to independent claim 1, the Examiner is not entitled to rely on WISC in the rejection of independent claim 1.

Independent claim 30 is directed to a method of estimating purchases made by customers of a supplier of interest from other suppliers. According to the method, customer data regarding purchases made by the customers from the supplier of interest are read, and panelist data regarding purchases made by panelists from the supplier of interest and from the other suppliers are also read. The panelists are a subset of the customers. Purchases made by the customers from the other suppliers are estimated based upon the customer data and the panelist data.

As discussed above, neither the Ando patent nor WISC suggests an arrangement for estimating past sales. Also, neither the Ando patent nor WISC suggests collecting and processing data in order to estimate purchases made by customers of a client from competitors based on data from those customers and a subset of those customers.

Accordingly, independent claim 30 is not unpatentable over the Ando patent in view of WISC.

Moreover, because the Examiner has not established that WISC is prior art with regard to independent claim 30, the Examiner is not entitled to rely on WISC in the rejection of independent claim 30.

Independent claim 39 is directed to a method in which purchases made by customers of a supplier of interest are estimated. A linear relationship between purchases made by panelists from the supplier of interest and purchases made by the panelists from the other suppliers is determined, and purchases by the customers from the other suppliers are estimated based upon the linear relationship.

Neither the Ando patent nor WISC suggests an arrangement for estimating past sales. Also, neither the Ando patent nor WISC suggests collecting and processing data to estimate purchases made by customers of a client based on data from panelists.

Accordingly, independent claim 39 is not unpatentable over the Ando patent in view of WISC.

Moreover, because the Examiner has not established that WISC is prior art with regard to independent claim 39, the Examiner is not entitled to rely on WISC in the rejection of independent claim 39.

Independent claim 43 is patentable over the Ando patent and WISC for similar reasons.

Finally, the Examiner required the names of any products that have the invention. The Examiner's attention is directed to Shopper Direct (Catalina) and to Consumer Direct (Yahoo). No prior art search was conducted.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached version is captioned **"VERSION WITH MARKINGS TO SHOW CHANGES MADE."**

In view of the above, the claims of the present application patentably distinguish over the art applied by the Examiner. Accordingly, allowance of these claims, and issuance of the present application are respectfully requested.

Respectfully submitted,

SCHIFF, HARDIN, & WAITE
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606-6402
(312) 258-5774

By: 

Trevor B. Jojke
Reg. No: 25,542

December 11, 2002

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS

The claims have been amended as follows:

44. (Amended) The [method] system of claim 43 wherein the analyzing means comprises means for performing an unrotated principal components factor analysis based upon purchase data.

45. (Amended) The [method] system of claim 44 wherein the analyzing means comprises means for determining a linear relationship based upon results from the unrotated principal components factor analysis.

46. (Amended) The [method] system of claim 45 wherein the linear relationship relates purchasers made by the panelists from the supplier of interest to purchases made by the panelists from the other suppliers.

47. (Amended) The [method] system of claim 45 wherein the estimating means estimates the purchases by the customers from the other suppliers based upon the purchases by the customers from the supplier of interest and upon the linear relationship.

48. (Amended) The [method] system of claim 43 wherein the analyzing means comprises means for determining a linear relationship between purchasers made by the panelists from the supplier of interest and purchases made by the panelists from the other suppliers.

49. (Amended) The [method] system of claim 48 wherein the estimating means estimates the purchases by the customers from the other suppliers by plugging the purchases by the customers from the supplier of interest into upon the linear relationship.